

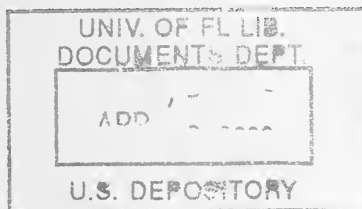
NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO  
CODE OF FAIR COMPETITION

FOR THE

PAINT, VARNISH and LACQUER  
MANUFACTURING  
INDUSTRY

AS APPROVED ON MARCH 2, 1934



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Approved Code No. 71—Amendment No. 1

## AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

### PAINT, VARNISH AND LACQUER MANUFACTURING INDUSTRY

As Approved on March 2, 1934

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#### ORDER

#### APPROVING AMENDMENTS OF CODE OF FAIR COMPETITION FOR THE PAINT, VARNISH AND LACQUER MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I, of the National Industrial Recovery Act, approved June 16, 1933, for approval of amendments to a Code of Fair Competition for the Paint, Varnish and Lacquer Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said amendments, containing findings with respect thereto, having made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate, by reference, said annexed report and do find that said amendments and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and do hereby order that said amendments be and they are hereby approved, and that the previous approval of said Code is hereby modified to include an approval of said Code in its entirety as amended.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval recommended:

GEO. L. BERRY,  
*Division Administrator.*

WASHINGTON, D.C.,  
*March 2, 1934.*

## REPORT TO THE PRESIDENT

The PRESIDENT,  
*The White House.*

SIR: An application has been duly made pursuant to and in full compliance with the provisions of the National Industrial Recovery Act, for Amendments to the Code of Fair Competition for the Paint, Varnish, and Lacquer Manufacturing Industry, submitted by the Paint Industry Recovery Board.

The hearing was conducted in Washington, D.C., on the 13th of February, 1934, at the Willard Hotel.

The first Amendment is an addition to Article II—"Definitions" and defines "Artists' Colors."

The labor provisions have been amended by limiting watchmen, janitors, and other caretakers to maximum hours of 48 in any one week and 84 in any 2-week period, work in excess of the maximums to be paid for at the rate of time and one-third.

Article XIV. "Manufacturing Restrictions" is amended to except "Artists' Colors."

Article XVI. "Standard Terms of Cash Discount" is amended to cover "Artists' Colors" setting discounts of 2% for cash in 10 days—net 30 days.

Article XVIII. "Datings", Section (a) "Spring Stock Orders" is amended to exclude "Artists' Colors." Section (b) "New Accounts" is amended to cover dating on new accounts for "Artists' Colors." Section (c) "Artists' Colors": "Fall Stock Orders" is an addition to Article XVIII.

Article XXII. "Selling Below Cost", Section (4) is amended to give the Paint Industry Recovery Board, the duty of classifying and furnishing to all manufacturers figures representing cost processing in the industry. These figures shall be the lowest reasonable cost of all manufacturers, subject to the approval of the Administrator.

Schedule A, Section 16 is amended to include 25 pound containers.

Article XXV. "Putty Division" is added. This Article defines the "Putty Division", makes provision for the establishment of a Putty Advisory Committee of five members to act in an advisory capacity to the Paint Industry Recovery Board, and sets up a schedule of Fair Trade Practices for the Putty Division.

### FINDINGS

The Deputy Administrator in his final report to me on said amendments to said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) The amendments to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the removal of obstruc-

tions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof.

(c) The National Paint, Oil, and Varnish Association, Incorporated, was and is an industrial association truly representative of the aforesaid Industry and that said association imposed and imposes no inequitable restrictions on admission to membership therein and has applied for or consents to these amendments.

(d) The amendments and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The amendments and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said amendments.

For these reasons, these amendments have been approved.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

MARCH 2, 1934.

## AMENDMENT TO CODE OF FAIR COMPETITION FOR THE PAINT, VARNISH AND LACQUER MANUFACTURING INDUSTRY

AMENDMENT 1. Article II is amended by the addition of the following between the first and second paragraphs:

"The term 'Artists' Colors' means artists' oil colors, or artists' paints, water colors including poster and showcard colors, tempera colors, and artists' pastels, prepared canvases and panels, artists' mediums and varnishes, artists' drawing and lettering inks, artists' block printing inks of oil or water base, charcoal, modelling tools and all types of artists' woodenware, such as easels, palettes, color boxes, and such kindred materials and articles ordinarily used in schools and by art students, artists, commercial artists, etchers, modellers, sculptors and craftsmen."

AMENDMENT 2. Article V, Section (c) is amended to read as follows:

"The maximum hours fixed in the foregoing Paragraphs (a) and (b) shall not apply to watchmen, janitors, or other caretakers; provided that such employees shall not work more than 48 hours in any one week, nor more than 84 hours in any 2-week period, except by payment of one and one-third rate for overtime; nor to employees in a managerial, executive, or other capacity who receive \$35.00 per week or more; provided that with respect to the exceptions in this Paragraph and in Paragraphs (a) and (b) of this Article there shall be no evasion of this Code by reclassification of the function of workers. A worker shall not be included in any one of the above exceptions unless the identical functions which he performs were identically classified on June 16, 1933."

AMENDMENT 3. Article XIV is amended to read as follows:

"With the exception of Artists' Colors, as defined in Article II, it shall be a violation of this Code for any manufacturer to fail to abide by the manufacturing restrictions as set out in Schedule A which is attached hereto and made a part of this Code, provided that this Article shall not apply to export trade and provided further that Paragraphs 2, 4, 5 and 6 of Schedule A shall not apply to products commonly known as 5, 10, and 25-cent merchandise which is sold at retail to the consumer at not more than 25 cents per package."

AMENDMENT 4. Article XVI is amended to read as follows:

"On and after the effective date the terms granted by manufacturers, excluding export trade, shall not exceed: Trade sales accounts, 2% for cash in 10 days, net 60 days; excepting Artists' Colors, on which the terms shall be—2% for cash in 10 days—net 30 days; industrial sales accounts, 1% for cash in 10 days, net 30

days; except that the discount to trade sales accounts may be extended to the 10th day of the month following purchase and the discount to industrial sales accounts may be extended to the 20th day of the month following purchase to customers who regularly discount in the month following purchase, and provided that no discount shall be allowed after the discount date."

AMENDMENT 5. Article XVII, Section (a) is amended to read as follows:

"(a) Spring Stock Orders—Datings on orders to established dealer and/or jobber accounts, excluding export trade, and Artists' Colors, shall be limited to datings on Spring Stock Orders shipped at the manufacturer's convenience after October 15, with an April 1 dating and regular terms; one order to an account.

AMENDMENT 6. Article XVII, Section (b) is amended to read as follows:

"(b) New Accounts—The maximum dating on trade sales stock orders (initial stock order only) to new dealer and/or jobber accounts, excluding export trade, and Artists' Colors, shall be limited to four months from the date of shipment and with standard terms, provided that orders shipped between October 15 and December 1 in any year may be with an April 1 dating and with regular terms. Datings on initial trade sales stock orders of artists' colors from new dealer and/or jobber accounts shall be limited to two months from the date of shipment and with standard terms."

AMENDMENT 7.—The following Section (e) is added to Article XVII:

"(e) *Artists' Colors*: Fall Stock Orders: Datings on orders to established dealer and/or jobber accounts shall be limited to datings on fall stock orders and shipped at the manufacturer's convenience after April 1, with a September 1 dating and regular terms and one order to an account. In the case of show-card colors and inks, which are subject to freezing, dating shall be limited on spring stock orders shipped at the manufacturer's convenience after November 1st (or, in the event shipment is made by a water route, which is affected by the closing of navigation, this date may be advanced not to exceed ten days prior to the official closing of navigation over such route), with an April 1st dating and regular terms and one order to an account."

AMENDMENT 8. Section (4) of Article XXII is amended to read as follows:

"The Paint Industry Recovery Board shall classify the products of the Industry and establish and furnish to all manufacturers figures representing all direct factory costs (such as power and labor) depreciation determined in accordance with the provisions of the Federal Income Tax Laws, plus a proper proportion of all indirect factory expenses (excepting interest on investment) in accordance with the share each class of products should bear. Such figures shall be the lowest reasonable cost of manufacturers, large and small, throughout the Industry and (subject to change by the Board) shall be used as the minimum processing cost by all members of the Industry, subject to the approval of the Administrator."

AMENDMENT 9. Section 16 of Schedule A is amended to read as follows:

"Cement and/or Lime Bound Water Mixed Paints in the following sizes only: 5 and 10 lb. containers, 25, 50 and 100 lb. containers, barrels of 300 lbs. net, or more."

AMENDMENT 10. Article XXV is added, which reads as follows:

#### "ARTICLE XXV—PUTTY DIVISION

"All provisions of this Code not in conflict with the provisions of Schedule B attached hereto and made a part hereof shall apply to the Putty Division as defined herein.

"SECTION 1. Definitions: The term 'Putty Division' of the Paint, Varnish and Lacquer Manufacturing Industry as used herein shall be construed to include all manufacturers of putty and/or plastic substitutes therefor used for the purpose of glazing and for such other purposes where putty is ordinarily used.

SECTION 2. Putty Advisory Committee: There shall be a committee of five members from the Putty Division of the Association: 2 from the Eastern states; 1 from the states in or west of the Rocky Mountains; and 2 from the remaining states; who shall be nominated and elected by the members at large of the Putty Division and submitted to the Paint Industry Recovery Board for approval.

"It shall be the duty of this committee to advise with the Paint Industry Recovery Board, as may be necessary from time to time, provided that the functions of this committee shall be entirely of an advisory nature and not binding upon the Paint Industry Recovery Board or its representatives.

"SECTION 3. Fair Trade Practices: It shall be a violation of this Code for any member of the Putty Division to fail to abide by the Fair Trade Practices set forth in Schedule B attached hereto."

AMENDMENT 11. Schedule B, Fair Trade Practices, is added, which reads as follows:

#### "SCHEDULE B—FAIR TRADE PRACTICES

"1. Manufacturing Restrictions: Putty, except for export trade, shall not be manufactured for the purpose of marketing as Trade Sales goods in packages other than the following: 1 lb. cans—5 lb. cans—12½ lb. pails—16 lb. pails—25 lb. pails; provided that nothing in this Code shall prevent the sale of these products in packages weighing more than 25 lb. net.

"2. Allowances: (a) No allowances shall be made for the return of any empty package, which empty package weighs less than 60 lb. net.

(b) No allowance shall be made for cartage.

"3 Free Goods and Premiums: In addition to the provisions of Article XX, Putty Knives shall not be given free of charge in connection with the marketing of putty.

"4. Standardization of Grades: With the exception of products made to order or on specifications, putty shall not be manufactured in a greater number of grades than herein permitted.

"(a) Woodsash Putty may be manufactured not to exceed:

"(1) 5 grades composed of calcium carbonate;



(2) 5 grades composed of calcium carbonate and not less than 5% white lead.

"(b) Factory type metal sash putty shall be manufactured in not more than 3 different grades.

"(c) Casement metal sash putty shall be manufactured in not more than 2 grades.

"(d) Primeless putty shall not be manufactured in more than 2 grades.

"5. Commercial grade of Putty, regardless of brand name, shall be the lowest quality Putty offered.

"6. Mislabelling, Misbranding and False Advertising: In addition to the provisions of Article XII, the following are hereby prohibited:

(a) Except as a part of a complete formula label the term "Linseed Oil" or the term "linseed" shall not be used in connection with the description of any putty, the vehicle portion of which is less than 100 percent pure Linseed Oil.

(b) The term "Chalk", "Chalk Whiting" or "True Chalk Whiting" shall not be used in connection with the description of any putty, unless the pigment portion thereof is 100 percent true Chalk Whiting. (But nothing in this clause is to restrict the use of the single word "Whiting" so long as the material used is Calcium Carbonate).

(c) The term "Pure", singly, or with any other word or words, or any derivative thereof, shall not be used in connection with the description of Putty unless the liquid portion thereof is 100 percent pure Linseed Oil.

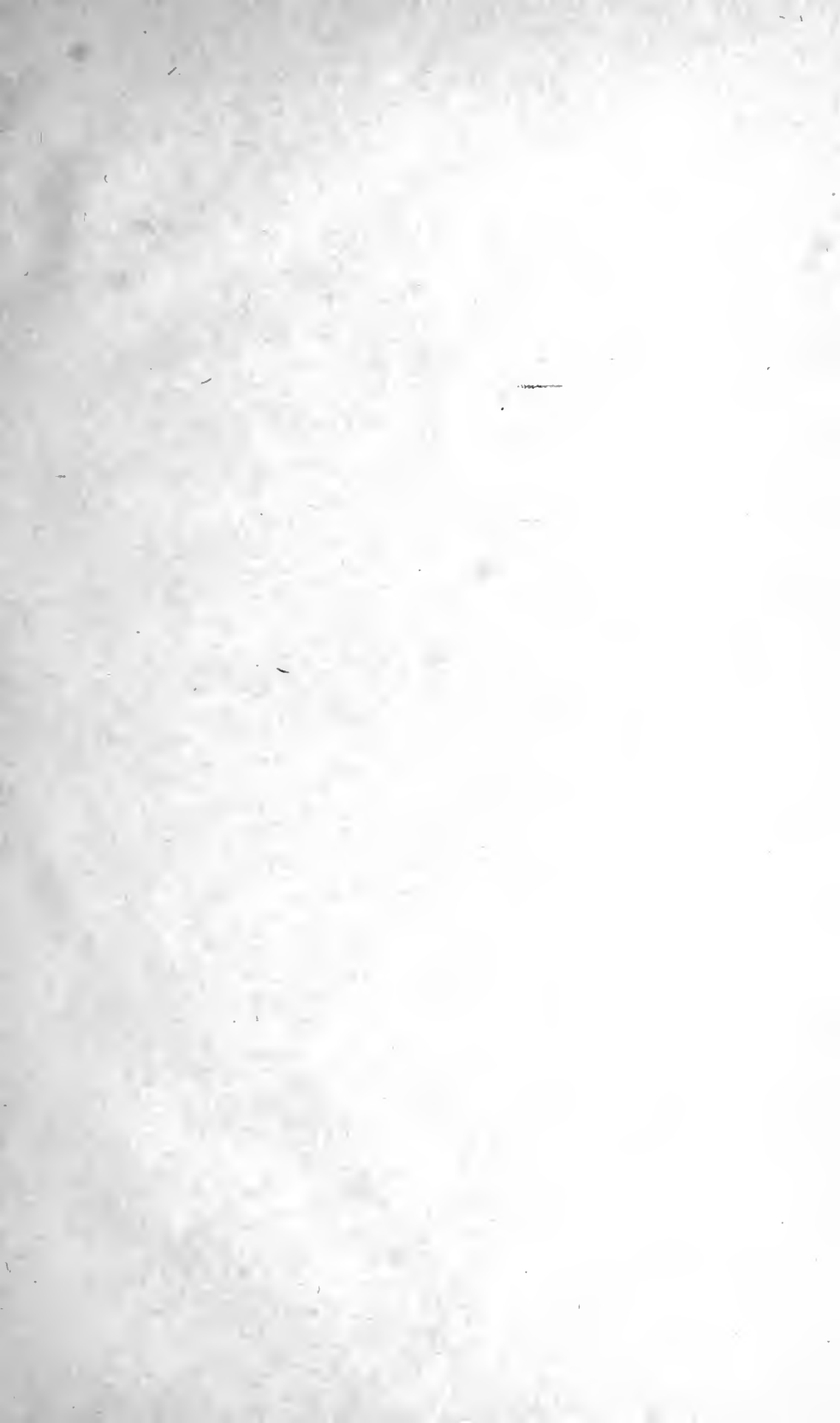
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